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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/997,626

11/28/2001

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EXAMINER

HARPER, KEVIN C

ART UNIT

PAPER NUMBER

2666

DATE MAILED: 08/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/997,626

Applicant(s)

SULLIVAN ET AL.

Examiner

Kevin C. Harper

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 10 and 14-25 is/are rejected.
- 7) ☒ Claim(s) 5-9 and 11-13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Specification

1. The disclosure is objected to because the continuation information on page 1 should list the priority application as abandoned (MPEP 201.11 (III)(B)). Appropriate correction is required.

Claim Objections

2. Claim 25 is objected to because in line 2, "interfaces to a" should be --interfaces to transmit a--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 10, 14, 19 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Joffe (US 6,014,367).

3. Regarding claims 1, 10, 14, 19 and 21, Joffe discloses a telecommunications system having a network element including a port for connection to a transmission line of a network (fig. 14, PIF; col. 1, lines 11-13), several transmission line interfaces (fig. 11, ITEM 132; note: each virtual path or tunnel has a scheduler for associated virtual circuits; col. 4, lines 58-62) each having a scheduler to transmit traffic in a port transmission slot (fig. 5) allocated to the interface (fig. 11, item 130; note: each virtual path as an associated bandwidth), a storage medium (fig. 14, control memory),

Art Unit: 2666

and an interface controller stored in the storage medium to selectively couple the transmission line interface to the port (col. 5, lines 17-25; col. 4, lines 59-60) and to allocate the port slots to each transmission line interface coupled to the port (fig. 11, item 130). The slots are hierarchical (fig. 11; note: slots assigned to VPs first and then divided among VCs)

4. Regarding claim 2, several transmission lines are coupled to each port (fig. 14).
5. Regarding claim 3, the network is ATM (col. 1, lines 6-9).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Joffe (US 6,014,367) in view of Christie (US 6,633,561).

Art Unit: 2666

6. Joffe discloses an ATM network element (fig. 14). However, Joffe does not disclose that the network element is a telephony switch. Christie discloses ATM network elements (fig. 3, items 360-366) as telephony switches (col. 10, lines 7-11 and 25-27). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have a telephony switch in the invention of Joffe in order to carry telephony data through the ATM switch (Christie, col. 2, lines 60-63; col. 3, lines 15-18).

Claims 15-18, 20, 22 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joffe (US 6,014,367) in view of Ganmukhi (US 5,580,399).

7. Regarding claims 15-18 and 24-25, Joffe discloses scheduling data traffic virtual circuits (fig. 11). However, Joffe does not disclose transmitting dynamic and dedicated traffic. Ganmukhi discloses scheduling dynamic data traffic (fig. 1, ABR, VBR, UBR queues; col. 9, lines 37-46) and dedicated data traffic (fig. 1, CBR queues; col. 9, lines 16-18) associated with virtual circuits. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have dedicated and dynamic data traffic scheduling in the invention of Joffe in order to accommodate different traffic types (Ganmukhi, col. 4, lines 9-15).

8. Regarding claims 20 and 22, Joffe discloses scheduling data traffic (fig. 11). However, Joffe does not disclose separately queuing traffic for each scheduler. Ganmukhi discloses separately queuing traffic for different schedulers (figs. 1-2). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to separately schedule traffic for each scheduler in the invention of Joffe in order to handle data traffic with differing QoS requirements (Ganmukhi, col. 2, lines 20-23).

Allowable Subject Matter


9. Claims 5-9, 11-13 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Harper whose telephone number is 571-272-3166. The examiner can normally be reached weekdays from 11:00 AM to 7:00 PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema S. Rao, can be reached at 571-272-3174. The centralized fax number for the Patent Office is 571-273-8300. For non-official communications, the examiner's personal fax number is 571-273-3166 and the examiner's e-mail address is kevin.harper@uspto.gov.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications associated with a customer number is available through Private PAIR only. For more information about the PAIR system, see portal.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kevin C. Harper

August 20, 2005